



Alcimedès

Habeas corpus ad subjiciendum is something of a legal mouthful which probably explains why it is abbreviated to “*Habeas corpus*”. This simplified term translates from Latin as “*You (may) have the body*,” where the bodily reference relates to an individual’s right to be presented before a court when accused of a crime. In England, the Habeas Corpus Act was passed in 1679,¹ although the underlying principle possibly pre-dates Magna Carta of 1215. Indeed, it is one of the cornerstones of common law jurisdictions around the world, not just the leafy suburbs of Runnymede.

Habeas corpus is central to the right to a fair trial and the liberty of the individual. Moreover, it appears in Article One of the Constitution of the United States of America,² and it is fundamental to Article 5 (“*Right to liberty and security of person*”) and Article 6 (“*Right to a Fair Trial*”) of the European Convention on Human Rights (1950)³ and the UK’s Human Rights Act 1998.⁴

Over the centuries, Habeas corpus has been variously challenged or suspended, usually during periods of war or social and political unrest. For instance, William Pitt the Younger suspended it in 1793, shortly after France had declared war on Britain. Across the Atlantic, President Abraham Lincoln felt the need to suspend Habeas corpus during the American Civil War, and further suspensions would occur in Britain during World War I and during the period of “internment” of Irish Republicans in the early 1970s.

More recently, allegations of terrorism have further complicated the issue: a suspected terrorist may not come to the authorities’ attention until just before he is due to launch his attack and much of the evidence against him might only be gathered after his arrest and detention. The length of time for which he may be detained without charge is therefore highly controversial, causing charged debate between civil rights groups, the police, the general public and politicians.

It is difficult to balance an individual’s fundamental rights to freedom and a fair trial, against the public’s right to protection: the rationale behind such decisions surely requires the wisdom of Solomon. In 2006, such a vision of genius appeared in the guise of Tony Blair, whose Government rose to this intellectual challenge and introduced the Terrorism Act 2006. This statute allowed the detention of terrorist suspects without charge for a period of up to 28 days,⁵ a time-frame that was regarded by many as being oppressive. However, in January 2011, the UK Government announced that the maximum length of time for which an individual can be held without charge on suspicion of terrorism offences would be reduced to the previous limit of 14 days.⁶ This reduction has been greeted enthusiastically in the civil rights arena. It remains to be seen what effect, if any, this change will have upon the authorities’ abilities to deal fairly and effectively with terrorism suspects.

The finer details of this proposal subsequently featured in the Protection of Freedoms Bill published on 10th February 2011.^{7,8} This

is the first proposed law to be put online for public consultation. If it becomes statute, it is liable to have major implications for all members of the public, not just those involved in legal matters. Key features of the Protection of Freedoms Bill include:

- The destruction of fingerprints and DNA profiles taken from individuals wrongly arrested, not convicted, or found to be innocent. This could amount to approximately one million DNA profiles from the UK DNA Database.
- A relaxation on vetting and criminal record checks.
- A ban on fingerprinting children without parental consent.
- A DNA profile will be kept for at least three years for individuals arrested for sexual or violent crimes, even if not convicted.
- Juveniles will have their profiles wiped clean, five years after the end of their sentences.

The Second Reading of the Bill is scheduled for 1st March 2011.

The Advisory Council on the Misuse of Drugs has hit further controversy with the appointment of Dr Hans-Christian Raabe, a Manchester-based GP with strongly-held religious and political views. He has been a vocal opponent of homosexuality, suggesting an overlap between gay relationships and paedophilia, and has proposed that the only way to defeat drug abuse is complete abstinence. As the Advisory Council is meant to be apolitical, his appointment was controversial from the outset: several co-members of the Council had apparently threatened to resign over his selection.^{9,10}

Alcimedès notes that he was appointed in January, but sacked in February. His journey lasted less than forty days and nights, and he now finds himself in the wilderness.

The annual report “*Statistics on Drug Misuse, England 2010*” was published in January 2011.¹¹ This detailed document relates to the years 2008–2009 and 2009–2010, dependent on the data collated.

In England, 8.6% of 16–59 year olds (approximately 2.8 million people) are believed to have taken illicit drugs in the year to April 2010: this suggests a reduction of approximately 400,000 on the previous year. However, the figures reveal that there has been an increase in the number of hospital admissions where illicit drugs have been the primary cause for admission, increasing by 2.5%–5809. Where account is taken of the illicit drugs as a secondary feature, this figure increased by 5.6%–44,585 admissions.

The total number of deaths due to drug misuse in England and Wales in 2008 was 1738. Of these, 78% were male, and accidental poisoning was the commonest single cause in both males and females. Such figures are liable to further fuel the debate on priorities in healthcare when considered next to deaths from smoking, alcohol and obesity. For instance, in England in 2008,

there were 83,900 deaths attributed to smoking, which represented 18% of all adult deaths, aged 35 and over.¹²

The Director of Public Prosecutions, Mr Keir Starmer QC, has issued new guidelines that he hopes will strengthen rape prosecutions as well as improve consistency in bringing such cases to trial.¹³ These changes follow on from a recent case, where a woman from Wales was charged with making a false retraction of an allegation of rape against her husband. She was imprisoned for eight months, but her subsequent appearance at the Court of Appeal resulted in a reduction to a two-year supervision order.

The DPP will now have the final say in whether to prosecute an individual who retracts a claim of rape or sexual assault. In the press release, Mr Starmer was quoted as saying,

"Cases should be judged entirely on the merits of the evidence: myths and stereotypes have no place in a criminal justice system underpinned by basic human rights."

Mr Starmer hopes that these reassuring words will meet "the high standard that the public rightly expect."

In addition, he has called for the CPS to offer greater communication and monitoring of alleged victims, with the introduction of Violence against Women (VaW) assurance measures. Not surprisingly, these guidelines have been welcomed by women's support groups and those involved in helping victims of sexual crime.

On a related theme, Justice Secretary Kenneth Clarke has announced a dedicated funding of £10million to Rape Crisis Centres in England and Wales over the next 3 years. This is the first time that this service has been guaranteed Government money over a three-year period.

As much of the support service in this area is provided by volunteers and charitable donations, the plans have been welcomed by support groups including National Rape Crisis and Survivors Trust. The Ministry of Justice has printed full details of this funding on its website.¹⁴ Other support groups who work with vulnerable individuals and victims (including victims of violent crime, and families bereaved by murder or manslaughter) will also be able to apply for funding.

A report from Trust for London and the Henry Smith Charity has calculated that domestic violence in London cost the taxpayer £918 million pounds last year. A breakdown of the figures reveals that £305 million results from time taken from work due to injuries or difficulty coping, £275 million related to the cost of the physical and mental injuries that have resulted, whilst bringing criminal proceedings costs over £200 million.

Domestic violence results in immeasurable costs to the individual victims. However, these figures also demonstrate that there is a significant financial cost to society resulting from domestic violence. In these times of economic hardship, campaigners are therefore arguing that a reduction in funding the fight against domestic violence would represent a false economy. The figures have been released as part of a larger report into the workings of four London independent domestic violence advocacy schemes.¹⁵

"Operation Slingshot" is currently overseeing the dismantling of the Forensic Science Service (FSS), with input from the National Police Improvement Agency (NPIA), Association of Chief Police Officers (ACPO) and the Home Office. With the gradual closure of

the FSS scheduled for March 2012, one of the first casualties appears to be the analysis of blood and urine samples in drink and drug-drive cases. The FSS confirmed a temporary suspension of the analysis of blood and urine samples on 9th February 2011, with the advice that such samples were to be refrigerated until an alternative provider could be found. Within a week, a raft of private providers had stepped forward to offer their services. The NPIA and ACPO have both insisted that this disruption did not affect the overall service and will have had no impact on the administration of justice.¹⁶

Alcmedes wonders whether there will be an increase in the numbers of challenges due to concerns over storage issues, handling of samples or the reliability of the secondary provider?

Meanwhile, a consultation period for a reduction in the drink-drive alcohol limit has recently finished on the Isle of Man. There has been a proposal to reduce the blood alcohol level from 80 mg/100 ml of blood to 50 mg/100 ml of blood. However, the reduction would only apply to newly-qualified drivers. A reduction to 50 mg would be in keeping with the limits in many countries across Europe, as well as agreeing with one of the recommendations in Sir Peter North's recent report into drink and drug-drive legislation.

The results of the consultation are to be presented to the island's House of Keys for debate.¹⁷

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